



Rep. Bob Morgan

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10200HB4116ham003

LRB102 19297 SPS 36903 a

1 AMENDMENT TO HOUSE BILL 4116

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4116, AS AMENDED,  
3 with reference to page and line numbers of House Amendment No.  
4 2, as follows:

5 on page 1, line 4, by replacing "(410 ILCS 705/10-50 rep.)"  
6 with the following:

7 "Section 5. The Cannabis Regulation and Tax Act is amended  
8 by changing Section 10-50 as follows:

9 (410 ILCS 705/10-50)

10 Sec. 10-50. Employment; employer liability.

11 ~~(a) Nothing in this Act shall prohibit an employer from~~  
12 ~~adopting reasonable zero tolerance or drug free workplace~~  
13 ~~policies, or employment policies concerning drug testing,~~  
14 ~~smoking, consumption, storage, or use of cannabis in the~~  
15 ~~workplace or while on call provided that the policy is applied~~

1 ~~in a nondiscriminatory manner.~~

2 ~~(b) Nothing in this Act shall require an employer to~~  
3 ~~permit an employee to be under the influence of or use cannabis~~  
4 ~~in the employer's workplace or while performing the employee's~~  
5 ~~job duties or while on call.~~

6 ~~(c) Nothing in this Act shall limit or prevent an employer~~  
7 ~~from disciplining an employee or terminating employment of an~~  
8 ~~employee for violating an employer's employment policies or~~  
9 ~~workplace drug policy.~~

10 ~~(d) An employer may consider an employee to be impaired or~~  
11 ~~under the influence of cannabis if the employer has a good~~  
12 ~~faith belief that an employee manifests specific, articulable~~  
13 ~~symptoms while working that decrease or lessen the employee's~~  
14 ~~performance of the duties or tasks of the employee's job~~  
15 ~~position, including symptoms of the employee's speech,~~  
16 ~~physical dexterity, agility, coordination, demeanor,~~  
17 ~~irrational or unusual behavior, or negligence or carelessness~~  
18 ~~in operating equipment or machinery; disregard for the safety~~  
19 ~~of the employee or others, or involvement in any accident that~~  
20 ~~results in serious damage to equipment or property; disruption~~  
21 ~~of a production or manufacturing process; or carelessness that~~  
22 ~~results in any injury to the employee or others. If an employer~~  
23 ~~elects to discipline an employee on the basis that the~~  
24 ~~employee is under the influence or impaired by cannabis, the~~  
25 ~~employer must afford the employee a reasonable opportunity to~~  
26 ~~contest the basis of the determination.~~

1       ~~(e)~~ Nothing in this Act shall be construed to create or  
2 imply a cause of action under this Act for any person against  
3 an employer for:

4           (1) actions taken pursuant to an employer's ~~reasonable~~  
5 workplace drug policy that complies with the Right to  
6 Privacy in the Workplace Act ~~, including but not limited~~  
7 ~~to subjecting an employee or applicant to reasonable drug~~  
8 ~~and alcohol testing, reasonable and nondiscriminatory~~  
9 ~~random drug testing, and discipline, termination of~~  
10 ~~employment, or withdrawal of a job offer due to a failure~~  
11 ~~of a drug test;~~

12           (2) actions based on the employer's good faith belief  
13 that an employee used or possessed cannabis in the  
14 employer's workplace or while performing the employee's  
15 job duties or while on call in violation of the employer's  
16 employment policies;

17           (3) actions, including discipline or termination of  
18 employment, based on the employer's good faith belief that  
19 an employee was impaired as a result of the use of  
20 cannabis, or under the influence of cannabis, while at the  
21 employer's workplace or while performing the employee's  
22 job duties or while on call in violation of the employer's  
23 workplace drug policy; or

24           (4) injury, loss, or liability to a third party if the  
25 employer neither knew nor had reason to know that the  
26 employee was impaired.

1       ~~(f) Nothing in this Act shall be construed to enhance or~~  
2 ~~diminish protections afforded by any other law, including but~~  
3 ~~not limited to the Compassionate Use of Medical Cannabis~~  
4 ~~Program Act or the Opioid Alternative Pilot Program.~~

5       ~~(g) Nothing in this Act shall be construed to interfere~~  
6 ~~with any federal, State, or local restrictions on employment~~  
7 ~~including, but not limited to, the United States Department of~~  
8 ~~Transportation regulation 49 CFR 40.151(e) or impact an~~  
9 ~~employer's ability to comply with federal or State law or~~  
10 ~~cause it to lose a federal or State contract or funding.~~

11       ~~(h) As used in this Section, "workplace" means the~~  
12 ~~employer's premises, including any building, real property,~~  
13 ~~and parking area under the control of the employer or area used~~  
14 ~~by an employee while in the performance of the employee's job~~  
15 ~~duties, and vehicles, whether leased, rented, or owned.~~  
16 ~~"Workplace" may be further defined by the employer's written~~  
17 ~~employment policy, provided that the policy is consistent with~~  
18 ~~this Section.~~

19       ~~(i) For purposes of this Section, an employee is deemed~~  
20 ~~"on call" when such employee is scheduled with at least 24~~  
21 ~~hours' notice by his or her employer to be on standby or~~  
22 ~~otherwise responsible for performing tasks related to his or~~  
23 ~~her employment either at the employer's premises or other~~  
24 ~~previously designated location by his or her employer or~~  
25 ~~supervisor to perform a work related task.~~

26       (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.);

1 and

2 on page 1, by deleting lines 5 and 6; and

3 on page 2, by replacing lines 18 through 24 with the following:

4 "Except as provided in paragraphs (1) and (2), nothing in  
5 this Act prohibits an employer from (i) enforcing a  
6 pre-employment drug testing policy, random drug testing  
7 policy, or zero-tolerance or drug-free workplace policy or  
8 from disciplining an employee or withdrawing a job offer from  
9 an applicant for violating such a policy; (ii) disciplining or  
10 discharging an employee whose use of a lawful product  
11 adversely affects or impairs the employee's job performance,  
12 conduct, or ability to safely perform the assigned job duties  
13 in the employer's workplace during working hours or hours the  
14 individual is on call; or (iii) implementing and enforcing  
15 workplace policies regarding the possession, use, or  
16 impairment of lawful products in the employer's workplace  
17 during working hours or hours the individual is on call."; and

18 on page 3, line 25, after "firearm", by inserting "or working  
19 for a law enforcement agency in a capacity that impacts the  
20 safety of others"; and

21 on page 4, line 14, by replacing "State" with "public"; and

1 on page 4, line 15, after "incapacity", by inserting ",  
2 compromise,"; and

3 on page 4, lines 24 and 25, by replacing "is a non-profit  
4 organization that" with "~~is a non profit organization that~~".